

(R-2003-925)

RESOLUTION NUMBER R-297548

ADOPTED ON JANUARY 14, 2003

WHEREAS, LNR Kearney Mesa, Inc., Owner and YMCA of San Diego County, Permittee, filed an application with the City of San Diego for Conditional Use Permit No. 4706, and Amendment No. 4705 to Planned Development Permit/Planned Industrial Development Permit No. 99-1269, to construct a YMCA facility housing exercise and athletic facilities and a childcare facility, outdoor athletic fields and a swimming pool known as the Toby Wells YMCA project, located at 5105 Overland Avenue, and legally described as Lot 32 of San Diego Spectrum Phase 2 in the City of San Diego, County of San Diego, State of California according to map thereof No. 13827 filed in the Office of the County Recorder on July 26, 1999, in the Kearny Mesa Community Plan area, in the OS-TDR zone; and

WHEREAS, this project is subject to Development Agreement on file in the Office of the City Clerk as Document No. OO-18448, filed December 2, 1997, and all amendments thereto, which subject the project to regulations in effect at the time of the effective Date of the Development Agreement; and

WHEREAS, on December 5, 2002, the Planning Commission of the City of San Diego considered Conditional Use Permit [CUP] No. 4706 and Amendment No. 4705 to Planned Commercial Development [PCD]/Planned Industrial Development [PID] Permit No. 99-1269, and pursuant to Resolution No. 3338-PC voted to recommend City Council approval of the permit; and

RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES DEPARTMENT
PERMIT INTAKE, MAIL STATION 501

AND WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 2A

SPACE ABOVE THIS LINE FOR RECORDER'S USE

PLANNED INDUSTRIAL DEVELOPMENT/ PLANNED COMMERCIAL DEVELOPMENT
[PID/PCD] PERMIT NO. 4705/CONDITIONAL USE PERMIT [CUP] NO. 4706
TOBY WELLS YMCA
AMENDMENT TO PID/PCD NO. 99-1269
(WHICH AMENDED PID/PCD NO. 96-0165 - SAN DIEGO SPECTRUM)
CITY COUNCIL

This Planned Industrial Development/Planned Commercial Development Permit No.4705/ Conditional Use Permit No. 4706, is granted by the Council of the City of San Diego to LNR Kearny Mesa, Inc., a California Corporation, Owner and YMCA of San Diego County, a 501-C3 Not for Profit California Corporation, Permittee pursuant to the City of San Diego Municipal Code [SDMC]. This Permit amends PID/PCD No. 99-1269 (San Diego Spectrum) which includes the 244 acre site bounded by Clairemont Mesa Boulevard to the north, State Route 163 and Kearny Villa Road to the west, Ruffin Road to the east, and Balboa Avenue to the south in the Kearny Meas Community Planning Area. The subject of this Permit, PID/PCD No. 4705/ CUP No. 4706, is the 6.6 acre site within San Diego Spectrum identified as Planning Area 7 (Missile Park). The 6.6 acre site is located at 5105 Overland Avenue in the OS-TDR of the Kearny Mesa Community Plan area. The project site is legally described as Lot 32 of San Diego Spectrum Phase 2 in the City of San Diego, County of San Diego, State of California according to map thereof No. 13827 filed in the Office of the County Recorder on July 26, 1999.

Subject to the terms and conditions set forth in this permit, permission is granted to Owner LNR Kearny Mesa, Inc., and Permittee YMCA of San Diego County to develop a new YMCA facility, including a Child Care Center facility, described as, and identified by size, dimension, quantity, type and location on the approved Exhibit "A," dated January 14, 2003, on file in the Office of the Development Services Department. The facility shall include:

- a. An approximately 45,000 square foot, single-story recreational activities building, including gymnasium, administrative offices, and a Child Care Center facility; a 25

yard swimming pool with retractable cover; an outdoor soccer field with lights; children's playgrounds, and associated restroom facilities;

- b. The former Missile Park Merry-Go-Round, two gazebos, and the Missile Park/Convair Drive street sign with a commemorative plaque;
- c. Landscaping (planting, irrigation and landscape related improvements);
- d. Off-street parking facilities (191 spaces); and
- e. Accessory improvements determined by the City Manager to be consistent with the land use and development standards in effect for this site per the adopted community plan, California Environmental Quality Act Guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this Permit, and any other applicable regulations of the SDMC in effect for this site.

1. Construction, grading or demolition must commence and be pursued in a diligent manner within thirty-six months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within thirty-six months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.

2. No permit for the construction, occupancy or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:

- a. The Permittee signs and returns the Permit to the Development Services Department; and
- b. The Permit is recorded in the Office of the San Diego County Recorder.

3. Unless this Permit has been revoked by the City of San Diego the property included by reference within this Permit shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the City Manager.

4. This Permit is a covenant running with the subject property and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.

5. The utilization and continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.

6. Issuance of this Permit by the City of San Diego does not authorize the Permittee for the Permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.)

7. The Owner/Permittee shall secure all necessary building permits. The applicant is informed that to secure these permits, substantial modifications to the building and/or site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.

8. At all bus stops within the project area, if any, the applicant shall be responsible for installing sidewalk improvements where needed to comply with American with Disability Act [ADA] requirements and in accordance with standards contained in the City of San Diego Street Design Manual.

9. Before issuance of any building or grading permits, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A," dated January 14, 2003, on file in the Office of the Development Services Department. No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit have been granted.

10. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this Permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded the special rights which the holder of the Permit is entitled as a result of obtaining this Permit. It is the intent of the City that the Owner/Permittee of the property, which is the subject of this Permit, either utilize the property for any use allowed under the zoning and other restrictions which apply to the property or, in the alternative, that the Owner/Permittee of the property be allowed the special and extraordinary rights conveyed by this Permit, but only if the Owner/Permittee complies with all the conditions of this Permit.

In the event that any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" conditions(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

11. All terms and conditions of the original PID/PCD Permit No. 96-0165 as amended by PID/PCD No.99-1269 are in effect unless otherwise noted in this Permit.

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

12. The applicant shall comply with the Mitigation, Monitoring and Reporting Program [MMRP] as specified in Environmental Impact Report or Mitigated Negative Declaration, LDR No. 41-0249/Project No. 2358 & 2360, satisfactory to the City Manager and the City Engineer. Prior to issuance of any grading permits and/or building permits, mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue area:

Hydrology/Water Quality

PLANNING/DESIGN REQUIREMENTS:

13. A minimum of 191 off-street automobile parking spaces, including six accessible spaces, shall be provided as required in Municipal Code Section 101.0800 et. seq. (Division 8: Off-Street Parking).. Additionally a minimum of four motorcycle parking spaces, and four bicycle spaces, shall be provided. All parking shall be permanently maintained on the property within the approximate location shown on the project's Exhibit "A," dated January 14, 2003, on file in the Office of the Development Services Department. Further, all on-site parking stalls and aisle widths shall be in compliance with requirements of the Municipal Code, and shall not be converted and/or utilized for any other purpose.

14. There shall be compliance with the regulations of the underlying zone(s) unless a deviation or variance to a specific regulation(s) is approved or granted as a condition of approval of this Permit. Where there is a conflict between a condition (including exhibits) of this Permit and a regulation of the underlying zone, the regulation shall prevail unless the condition provides for a deviation or variance from the regulations. Where a condition (including exhibits) of this Permit establishes a provision which is more restrictive than the corresponding regulation of the underlying zone, then the condition shall prevail.

15. The height(s) of the building(s) or structure(s) shall not exceed those heights set forth in the conditions and the exhibits (including, but not limited to, elevations and cross sections) or the maximum permitted building height of the underlying zone, whichever is lower, unless a deviation or variance to the height limit has been granted as a specific condition of this Permit.

16. A topographical survey conforming to the provisions of the SDMC may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this Permit or a regulations of the underlying zone. The cost of any such survey shall be borne by the Permittee.

17. No building additions, including patio covers, shall be permitted unless approved by the Director of the Development Services Department. Patio covers may be permitted only if they are consistent with the architecture of the building.

18. All signage associated with this development shall be consistent with sign criteria established by either of the following:

- a. approved project sign plan (Exhibit "A," dated January 14, 2003, on file in the Office of the Development Services Department); or
- b. Citywide sign regulations.

19. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located.

20. Prior to the issuance of any building permits, complete outdoor lighting information shall be submitted to the Development Services Department, Land Development Review Division, for review and approval. Complete lighting information shall include a plan view photometric analysis indicating an isofoot candle plot and a point by point plot to include all areas within the private property and to extend a minimum of 50 feet beyond the property line, construction details as necessary to direct installation of the outdoor lighting system, manufacturers name, visors, prisms, lenses and reflectors and a lighting plan locating each fixture in plan view and a legend. The outdoor lighting system shall be designed, manufactured and installed to allow shading, adjusting, and shielding of the light source so all outdoor lighting is directed to fall only onto the same premises as light sources are located.

Prior to the issuance of any occupancy permit, a night inspection shall be required to verify compliance of the outdoor lighting system. No light shall be directed to fall outside the property line. Light levels along the perimeter of the property shall be measured no higher than three footcandles. Light levels throughout the planned commercial development shall be the least practical level necessary to effectively illuminate the operation. Sky glow or light halo shall be reduced to the greatest extent practical and in no case shall initial light levels be measured exceeding fourteen footcandles anywhere within the site. The Owner/Permittee, or an authorized representative, shall provide an illuminance meter to measure light levels as required to establish conformance with the conditions of this Permit during the night inspection. Night inspections may be required additional fees as determined by the Director of the Development Services Department.

21. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.

22. No mechanical equipment, tank, duct, elevator enclosure, cooling tower mechanical ventilator, or air conditioner shall be erected, constructed, converted, established, altered, or enlarged on the roof of any building, unless all such equipment and appurtenances are contained within a completely enclosed structure whose top and sides may include grillwork, louvers and latticework.

23. No merchandise, material, or equipment shall be stored on the roof of any building.

24. No mechanical equipment shall be erected, constructed, or enlarged on the roof of any building on this site, unless all such equipment is contained within a completely enclosed architecturally integrated structure.

25. Prior to the issuance of building permits, construction documents shall fully illustrate compliance with the Citywide Refuse and Recyclable Materials Storage Regulations (SDMC section 142.0801) to the satisfaction of the City Manager. All exterior storage enclosures for trash and recyclable materials shall be located in a manner that is convenient and accessible to all occupants of and service providers to the project, in substantial conformance with the conceptual site plan marked Exhibit "A," dated January 14, 2003, on file in the Office of the Development Services Department.

26. The child care center shall be operated in accordance with the regulations specified in SDMC Sec.101.0580.E.

27. A plaque shall be erected on site to commemorate the important historical role of General Dynamics and Missile Park in the San Diego community. The design and text of the plaque shall be approved by the City Manager.

TRANSPORTATION REQUIREMENTS:

28. The project shall comply with all current street lighting standards according to the City of San Diego Street Design Manual (Document # 769844, filed January 12, 2001), and City Council Policy 200-18 amended by the City Council on February 26, 2002.

LANDSCAPE REQUIREMENTS:

29. No change, modification or alteration shall be made to the project unless appropriate application or amendment of this Permit has been granted by the City. All plan specifications and notes mentioned in the conditions below shall be consistent with SDMC section 101.0700 and the Landscape Technical Manual, Exhibit "A," Landscape Development Plan, Details and Notes, dated January 14, 2003, on file in the Office of the Development Services.

30. All required landscape plant materials shall be maintained in a disease, weed and litter free condition at all times. Severe pruning or "topping" of trees is not permitted. The trees shall be maintained in a safe manner to allow each tree to grow to it's mature height and spread.
31. The Owner/Permittee or subsequent Owner shall be responsible for the maintenance of all street trees and landscape improvements (right-of-way and median landscaping) consistent with the Landscape Standards.
32. If any required landscape improvements (including existing or new planting, hardscape, landscape features, etc.) are damaged or removed during demolition or construction, they shall be repaired and/or replaced in kind and equivalent size per the approved documents to the satisfaction of the City Manager, within thirty days of damage and prior to any Certificate of Occupancy.
33. Prior to issuance of any engineering permits for right-of-way improvements, complete landscape and irrigation plans on duplicates of improvement plans shall be submitted to the City Manager for approval. Plans, details and specifications (including maintenance specifications), and Landscape Improvement Plans shall indicate each street tree by station points and staking in the field with a lodge pole tree stake prior to any utilities stub-outs. Tree stakes shall remain in place until trees are planted.
34. All tree locations shall have a 40 square feet minimum area around each tree's root zone, which is unencumbered by utilities. Driveways, utilities, drains, water and sewer laterals shall be designed so as not to prohibit the placement of any tree. During improvement activities the locations of all trees shall be identified with a lodge pole tree stake and inspected by the field engineer prior to the installation of any wet or dry utility stub-outs and placement of any pavement.
35. Prior to issuance of any engineering permits for grading, landscape construction documents (including irrigation plans) for slope planting, erosion control, re-vegetation and hydroseeding shall be submitted to the City Manager for approval.
36. Immediate installation of slope planting and erosion control, including seeding of all disturbed land (slopes and pads) and associated irrigation systems (temporary and/or permanent) is considered to be in the public's interest. Planting of all graded slopes shall be accomplished prior to any issuance of a build permit for structures. A letter of substantial conformance from the landscape architect or designer shall be submitted to the city manager for approval.
37. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Owner/Permittee or subsequent Owner to install all required landscape improvements and obtain all required landscape inspections. A No Fee Street Tree Permit, shall be obtained for the installation, establishment and on-going maintenance of all street trees.

38. In the event that a Foundation Only permit is requested by the Owner/Permittee or subsequent Owner, a staking layout plan identifying all landscape areas shall be submitted to the City Manager for approval. These landscape areas shall be clearly identified with a distinct symbol, noted with dimensions and labeled as "Planting Area (PA)".

39. Prior to issuance of any construction permits for structures (including shell), complete landscape and irrigation plans, details and specifications (including maintenance specifications), shall be submitted to the City Manager for approval.

40. In the event that the Landscape Plan and the Site Plan conflict, the Landscape Plan shall prevail.

41. Security lighting in the vehicular use area shall be located as shown on Exhibit "A," dated January 14, 2003, on file in the Office of the Development Services Department, and shall not be constructed in tree planters. In the event that a light pole base is constructed in a planter, it shall be relocated prior to occupancy.

42. Prior to issuance of any engineering or building permits, landscape construction documents shall be submitted that include the following information: Indicate existing trees to remain on site in accordance with the approved Exhibit "A," Landscape Development Plan and Exhibit "A" Existing Tree Plan, dated January 14, 2003, on file with the Office of the Development Services Department. Indicate trees with a dashed symbol and number. In the plant legend, identify the trees by number with the botanical name, common name, height of the tree, width of the canopy and the trunk caliper size.

43. Prior to issuance of any engineering or building permits, landscape construction documents shall be submitted that include the following information: Provide the following protection for existing trees to remain:

- a. place a bright yellow or orange temporary fence around tree at drip line;
- b. stockpiling, topsoil, material storage, vehicle use, foot traffic, and storage is prohibited within the dripline;
- c. protect root systems from flooding, erosion, chemical spills, and excessive wetting and drying during de-watering;
- d. maintain existing grade within drip line;
- e. cut roots approximately 6 inches back from new construction and seal cut with wood paint as manufactured by Flintkote or approved equal;
- f. maintain and document a tree watering schedule during construction; and,
- g. replace damaged trees with one of equal or greater size.

44. Prior to the issuance of engineering or construction permits, provide landscape and irrigation construction documents that show a separate water meter for irrigation.

ENGINEERING REQUIREMENTS:

45. Prior to the issuance of any building permits, the applicant shall assure by permit and bond the installation of a City standard 30 foot-wide driveway, on Lightwave Avenue, and a 30 foot-wide driveway on Overland Avenue, per Standard Drawings G-14A, G-16 and SDG-100, satisfactory to the City Engineer.

46. Prior to the issuance of any building permits, the applicant shall obtain an encroachment removal agreement from the City Engineer for landscaping, irrigation and appurtenances in the City right-of-way.

47. The grading plan, drawing 29636-D, for this site shall be as-built prior to any additional grading permits being issued for this project.

48. The drainage system for this project shall be private and will be subject to approval by the City Engineer.

49. Prior to the issuance of any building permits, the applicant shall obtain a bonded grading permit for the grading proposed for this project. All grading shall conform to requirements in accordance with the SDMC in a manner satisfactory to the City Engineer.

50. Prior to building occupancy, the applicant shall conform to SDMC section 62.0203, "Public Improvement Subject to Desuetude or Damage." If repair or replacement of such public improvements is required, the owner shall obtain the required permits for work in the public right-of-way, satisfactory to the permit-issuing authority.

51. Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code section 66020.

WASTEWATER REQUIREMENTS:

52. The developer shall design and construct any proposed public sewer facilities in accordance with established criteria in the most current edition of the City of San Diego sewer design guide. Proposed facilities that do not meet the current standards shall be redesigned or private.

53. Proposed private underground sewer facilities located within a single lot shall be designed to meet the requirements of the California Uniform Plumbing Code and shall be reviewed as part of the building permit plan check.

WATER REQUIREMENTS:

54. Prior to the issuance of any building permits, the Owner/Permittee shall assure, by permit and bond, the design and construction of new water service(s) outside of any driveway, and the removal of all existing unused services within the Overland Avenue and Lightwave Avenue rights-of-way adjacent to the project site, in a manner satisfactory to the Director of the Water Department and the City Engineer.

55. Prior to the issuance of any certificates of occupancy, public water facilities necessary to serve the development, including services, shall be complete and operational in a manner satisfactory to the Director of the Water Department and the City Engineer.

56. All on-site water facilities shall be private including domestic, fire and irrigation systems.

57. The Owner/Permittee agrees to design and construct all proposed public water facilities in accordance with established criteria in the most current edition of the City of San Diego Water Facility Design Guidelines and City regulations, standards and practices pertaining thereto. Water facilities, as shown on approved Exhibit "A," dated January 14, 2003, on file in the Office of the Development Services Department, shall be modified at final engineering to comply with standards.

INFORMATION ONLY

Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this Permit, may protest the imposition within ninety days of the approval of this Permit by filing a written protest with the City Clerk pursuant to California Government Code section 66020.

APPROVED by the City Council of the City of San Diego by Resolution No. R-297548 on January 14, 2003.

AUTHENTICATED BY THE CITY MANAGER

By _____

The undersigned Permittee, by execution hereof, agrees to each and every condition of this Permit and promises to perform each and every obligation of Permittee hereunder.

LNR KEARNEY MESA, INC.

Owner

By _____

YMCA OF SAN DIEGO COUNTY, a

501-C3 Not for Profit Corporation

Permittee

By _____

**NOTE: Notary acknowledgments
must be attached per Civil Code
section 1180 et seq.**

R 207548

WHEREAS, the matter was set for public hearing on January 14, 2003, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to CUP No. 4706/Amendment No. 4705 to PCD/PID Permit No. 99-1269:

A. CONDITIONAL USE permit (SAN DIEGO MUNICIPAL CODE [SDMC] SECTION 101.0510)

1. The proposed use will not adversely affect the neighborhood, the general plan, or the community plan, and, if conducted in conformity with the conditions provided by the permit, will not be detrimental to the health, safety and general welfare of persons residing or working in the area. The project proposes to develop a YMCA facility with Child Care Center on a 6.6 acre parcel designated as Planning Area 7 of the New Century Center Master Plan area of the Kearny Mesa Community Plan. The property is located northeast of the intersection of Lightwave and Overland Avenues and is zoned OS-TDR (Open Space - Transfer of Development Rights). The project site is currently designated as Open Space in the Kearny Mesa Community Plan and is further identified in the New Century Center Master Plan as a passive recreational area. The proposed project would amend the Master Plan and the KMCP to allow active recreational uses in order to allow development of the proposed YMCA facility. The OS-TDR zone allows development of active park facilities and Child Care Center facilities with issuance of a Conditional Use Permit.

The proposed Toby Wells YMCA facility would include an approximately 45,000 square foot, single-story athletic/recreational activities building, a 25 yard swimming pool with retractable cover; an outdoor soccer field with lights; children's playgrounds, and associated restroom facilities. The 45,000 square foot building would include recreational facilities consisting of a youth gymnastics center, basketball courts, fitness center, lockers and related recreational amenities totally approximately 38,700 square feet; administrative offices comprising about 1,200 square feet and a Child Care Center facility comprising approximately 4,000 square feet.

The proposed project is in conformance with the City's General Plan and the amended Kearny Mesa Community Plan as described above. The Community Facilities and Services Element of the Community Plan identifies that the primary need in Kearny Mesa is for on-site recreation and exercise to serve employees during the lunch period, or before or after work during the week. The proposed YMCA facility provides the active recreation suggested by the community plan, along with providing an open, passive area. The activities to be offered will target not only nearby employees, but will also provide organized activities for children and adults from the surrounding community.

The proposed project will not adversely affect other properties, but rather create a safe recreational facility to be used by those persons residing or working in the area. The project as proposed and conditioned complies with all applicable regulations, including those regarding fire and emergency access, and health and safety. Mitigated Negative Declaration No. 41-0249 has been prepared for this project in accordance with the California Environmental Quality Act [CEQA] Guidelines. A Mitigation, Monitoring, and Reporting Program [MMRP] has been prepared and will be implemented to reduce all potential impacts to below a level of significance. The MMRP addresses the issue area of Hydrology/Water Quality.

2. The proposed use, will comply with all the relevant regulations in this code. The Toby Wells YMCA project proposed to develop a recreational and community facility on approximately 6.6 acres of the existing Missile Park. The project includes one single story, 45,000 square foot building to house recreational activities including gymnastics, fitness center, basketball courts, lockers; administrative office space, and a Child Care Center. The project would also include a 25 yard pool with retractable cover, outdoor soccer field with lights, children's playgrounds, and associated restroom facilities.

The project includes an amendment to the Kearny Mesa Community Plan to specify active recreation as a permitted use, and the code permit all uses specified in the land use plan. The project as proposed and conditioned complies with all relevant regulations, including those regarding fire and emergency access, parking, landscaping, and setbacks. No deviations or variances are requested with this project.

B. PLANNED COMMERCIAL DEVELOPMENT [PCD], AND PLANNED INDUSTRIAL DEVELOPMENT [PID] (SDMC SECTIONS 101.0910, 101.0920)

1. The proposed use will fulfill a community need and will not adversely affect the City's Progress Guide and General Plan or the adopted Community Plan. Community recreational or park facilities are an identified need in the Kearny Mesa Community, especially as additional residential uses are developed within the San Diego Spectrum. The Community Facilities and Services Element of the Community Plan identifies that the primary need in Kearny Meas is for on-site recreation and exercise to serve employees during the lunch period, or before or after work during the week. The proposed YMCA facility provides the active recreation suggested by the community plan, along with providing an open, passive area. The activities to be offered will target not only nearby employees, but will also provide organized activities for children and adults from the surrounding community. The proposed project therefore fulfills a community need and is in conformance with the City's General Plan and the Kearny Mesa Community Plan as amended to allow active recreation facilities.

2. The proposed use will not be detrimental to the health, safety and general welfare of persons residing or working in the area and will not adversely affect other properties in the vicinity. The proposed project is in conformance with the City's General Plan and the Kearny Mesa Community Plan as amended to allow active recreation facilities. The proposed use will not be detrimental to the health, safety and general welfare of persons residing or working in the area.

The proposed project will comply with applicable regulations and guidelines relating to building construction and fire protection. The proposed project will not adversely affect other properties, but rather create a safe recreational facility to be used by those persons residing or working in the area. The project as proposed and conditioned complies with all applicable health and safety regulations, including fire and emergency access. Mitigated Negative Declaration No. 41-0249 has been prepared for this project in accordance with CEQA Guidelines. A MMRP has been prepared and will be implemented to reduce all potential hydrology and water quality impacts to below a level of significance.

3. The proposed use will fully comply with the relevant regulations of the SDMC in effect for this site. The project as proposed and conditioned complies with all relevant regulations, including those regarding fire and emergency access, parking, landscaping, and setbacks. No deviations or variances are requested with this project. Development limitations prohibiting construction within the OS-TDR zone have been declared irrelevant to this permit because of the circumstances under which this zoning was applied. Missile Park site was a privately owned open space within the M1-B zone prior to the adoption of the Master Plan and was already developed with active recreation structures and uses. Because the site was intended to remain a recreation area under the Master Plan, continuation of the existing M1-B zoning was considered inappropriate. Open space zoning was considered the only appropriate zone category for the site.

OS-P was considered to be the most appropriate zone designation for the site due to its existing development, however, this zone requires that the land be publicly owned. Because the City determined that acquisition of Missile Park was not warranted, the OS-P zone could not be applied. The only open space designation that could be applied to privately owned land was OS-TDR. OS-TDR is a specialized open space zone intended to create undeveloped open space in return for a transfer of development rights. As such, it does not permit any private construction. The Missile Park site was never intended, nor utilized for any transfer of development rights, the OS-TDR zone was chosen because it was the only appropriate zone available for privately owned land. Because of this, the construction limitations of the OS-TDR zone are not considered relevant to the project and are not applicable.

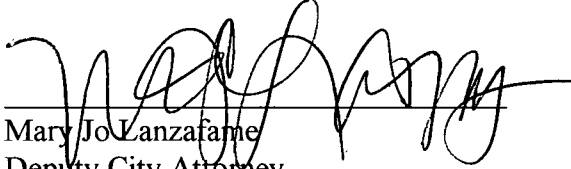
The above findings are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that the recommendation of the Planning Commission is sustained, and Conditional Use Permit No. 4706/Amendment No. 4705 to Planned Commercial Development/Planned Industrial Development Permit No. 99-1269 is granted to LNR Kearney,

Inc., Owner and YMCA of San Diego County, Permittee, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

APPROVED: CASEY GWINN, City Attorney

By


Mary Jo Lanzafame
Deputy City Attorney

MJL:pev

1/29/03

Or.Dept:Clerk

R-2003-925

Form=permitr.frm

Reviewed by Vickie Gallagher